

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

IN RE:

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§

CASE NO.

**INITIAL ORDER FOR CASE MANAGEMENT OF CHAPTER 13 CASE**

**THIS IS A CASE MANAGEMENT ORDER ISSUED UNDER AUTHORITY OF BANKRUPTCY CODE § 105(a). FAILURE TO COMPLY WITH THIS ORDER MAY RESULT IN DISMISSAL OF THIS CASE, POSSIBLY WITH PREJUDICE TO THE DEBTOR(S) FILING ANOTHER BANKRUPTCY CASE. NOTE THAT UNDER AUTHORITY OF BANKRUPTCY LOCAL RULE (BLR) 1001(d), THE PROVISIONS OF THIS ORDER SUPERCEDE THE BLR TO THE EXTENT THAT THERE MAY BE A CONFLICT. IN ALL CASES, IF NO PARTY TIMELY OBJECTS TO REQUESTED RELIEF, THE COURT MAY DISMISS A CASE WITHOUT AN ACTUAL HEARING AS PROVIDED BY BANKRUPTCY CODE § 102(1).**

**1. If any party cannot, with reasonable diligence, comply with this case management order, a motion for relief must be filed prior to the applicable deadline.**

**2. Payment of the Filing Fee.**

- a. The Debtor(s) shall pay the filing fee with the petition or promptly on the due date provided in an order allowing installment payments.
- b. If the filing fee or any installment is not timely paid, the Clerk shall issue a notice of pending dismissal of the case for failure to pay filing fees. The notice of pending dismissal shall be served on the Debtor(s), Debtor(s)' counsel and the Chapter 13 Trustee.
- c. If the Debtor(s) do not pay the filing fee or request a hearing within 10 days after the notice is served, the case may be dismissed forthwith. (Bankruptcy Code § 102(1)(B).)

**3. Filing the List of Creditors, Plan, Schedules and Statements...**

- a. The list of creditors (with addresses) must be filed with the petition in the format prescribed by the Clerk unless a motion for extension of time under Federal Rule of Bankruptcy Procedure (FRBP) 1007(a)(4) is filed with the petition.
- b. A motion for extension of time to file the list of creditors, plan, schedules or statements need be served only on the Chapter 13 Trustee and on the U.S. Trustee. Because the FRBP require a creditor's meeting within 50 days, except for truly exceptional circumstances, the Court will not grant an extension beyond 25 days for filing the plan, schedules or statements
- c. If the U.S. Trustee files a motion to dismiss under Bankruptcy Code § 1307(c)(9) or (10), or if the Chapter 13 Trustee files a motion to dismiss for delay prejudicial to creditors and the basis of that motion is that the Debtor(s) failed to file the papers required by Bankruptcy Code § 521 or failed to file a plan in accordance with FRBP 3015, the motion need not be served on any party except the Debtor(s) and, if the Debtor(s) are represented by counsel, on Debtor(s)' counsel.
- d. If either the U.S. Trustee or the Chapter 13 Trustee files a motion to dismiss under subparagraph (c) above, the motion need not include BLR 9013 language but shall include the following notice:

*A hearing will be conducted on this matter on [insert date of next chapter 13 panel following expiration of 15 days] at \_\_\_\_ a.m. If the Debtor(s) object to the requested relief, the Debtor(s) and counsel must attend the hearing. If no party objects to the requested relief within (ten) 10 days after the date that the motion was served, the United States Trustee or the Chapter 13 Trustee may file a certificate of non-compliance and the Court may dismiss this case without actually conducting a hearing. (Bankruptcy Code § 102(1)(B).)*

**4. Motions for Wage Orders and Automatic Funds Transfer Orders Filed by the Chapter 13 Trustee.** Whether or not the Debtor(s) request a wage order, the Chapter 13 Trustee may request one. The following procedures shall apply to any motion for a wage order or for an Automatic Funds Transfer Order that is filed by the Chapter 13 Trustee:

- a. The motion must be served on the Debtor(s) and the Debtor(s)' counsel.
- b. The motion need not include BLR 9013 language but shall include the following notice:

*A hearing will be conducted on this matter on [insert date of next chapter 13 panel following expiration of 15 days] at \_\_\_\_ a.m. If the Debtor(s) object to the requested relief, the Debtor(s) and counsel must attend the hearing. If no party has objected to the requested relief within 10 days after the date that the motion was served, the Court may treat the motion as unopposed and enter the requested order without conducting an actual hearing. (Bankruptcy Code § 102(1)(B).)*

c. If a wage order or an automatic funds transfer order is entered, the Debtor(s) shall ensure that the order is kept in force throughout the case. New wage orders or automatic funds transfer orders are required on change of employment or other changes in circumstances. If a wage order or an automatic funds transfer order has been entered and the plan provides for an increase in payments, the Debtor(s) shall timely request an increase to comply with the plan. In addition, the trustee may submit an amended order at confirmation or before the time of the increase, which amended order will reflect the increased payment amount. No motion shall be required to be submitted with the proposed amended order.

**5. The Debtor(s) Shall Prosecute the Case Effectively and Expeditiously.**

- a. The Debtor(s) shall comply with all deadlines established in the Bankruptcy Code and Federal Rules of Bankruptcy Procedure, unless an extension is obtained.
- b. One of the principal factors delaying confirmation of chapter 13 cases has been Debtor(s)' failure to file tax returns and the consequent inability to determine tax liabilities that are allowed priority claims. Therefore, within sixty (60) days after the date that the petition is filed, the Debtor(s) shall file any delinquent federal or state tax returns for periods covered by § 507(a)(8). The returns shall be filed with the appropriate federal or state taxing authority, not the Chapter 13 Trustee. Contemporaneously with filing federal tax returns, the Debtor(s) shall provide copies to the Internal Revenue Service Insolvency Section. The address for filing these delinquent returns is:

INSOLVENCY GROUP

INTERNAL REVENUE SERVICE

1919 Smith Street

Stop 5022 HOU

Houston, TX 77002

It is very important to use the correct address. Do not simply file the return with any other IRS office.

- c. Chapter 13 cases must be effectively prosecuted. If the chapter 13 plan has not been confirmed within 180 days after the case was filed, Debtor(s) must appear at any hearing after that date on pre-confirmation motions to dismiss and plan confirmation.

**6. Mandatory Response Dates Regarding Mandatory Pre-Confirmation Payments.**

- a. Debtors must timely respond to motions by the Chapter 13 Trustee to dismiss for failure to make a pre-confirmation payment to the Chapter 13 Trustee.
- b. A response will be timely if it is filed within 20 days of the date of service of the objection or motion to which it responds. The Debtor(s) may respond at the confirmation hearing to motions to dismiss served less than 20 days before the date of the confirmation hearing.
- c. At or before 7 days (including weekends and holidays) before the hearing set on confirmation of the Debtor(s)' plan, the Debtor(s) must be current on all pre-confirmation payments which were due in the calendar month prior to the hearing. The Court will not consider payments tendered within 7 days (including weekends and holidays) before the hearing on confirmation of the plan.

**7. Chapter 13 Trustee to Set Confirmation on all Plans.**

- a. The Chapter 13 Trustee is ordered to give a timely notice of the hearing on plan confirmation. The hearing shall be set not later than the first chapter 13 panel that is at least 100 days after the commencement of the chapter 13 case.
- b. Confirmation hearings will be continued beyond the initial setting for good cause shown. A motion for continuance shall be filed setting forth the basis of the cause for the requested continuance. The Chapter 13 Trustee is not authorized to grant a continuance of the confirmation hearing. Only the Court may grant a continuance of the confirmation hearing.
- c. Absent exceptional circumstances, the hearing on confirmation of the Debtor(s)' plan will not be continued to a date that is after 180 days after the commencement of the chapter 13 case.
- d. At least 5 days before confirmation, the Chapter 13 Trustee shall submit a recommendation (which may be in summary chart form for all cases set for confirmation on a particular date) as to whether plans should be confirmed. The Court will not be bound by the Chapter 13 Trustee's recommendation for or against confirmation. If the Chapter 13 Trustee has recommended in favor of confirmation and if there are no objections to be considered at confirmation, the Debtor(s) and Debtor(s)' counsel need not attend. If the Court determines that a hearing is required on a plan for which confirmation is recommended by the trustee and on which no other objections were filed, the hearing will be rescheduled with notice to the Debtor(s) and Debtor(s)' counsel. If the Chapter 13 Trustee has not recommended confirmation, the Debtor(s) and Debtor(s)' counsel must attend the hearing and meet the Debtor(s)' statutory confirmation burden, except that attendance in the circumstances set forth in § 7, § 8, § 9(b) and § 9(c) below shall be according to those sections.

8. **11 U.S.C. § 506(a) Hearings to be at Confirmation.** Pursuant to 11 U.S.C. § 506(a), the Court will consider the valuation of any property that secures a lien “in conjunction with any hearing ... on a plan affecting such creditor’s interest.” If a plan proposes to pay the holder of a secured claim less than the amount owed the holder of the secured claim, the Court will treat the filing of the plan as a request, pursuant to § 506(a) for a valuation hearing. At the initial hearing on confirmation of the plan, the Court will conduct a scheduling conference and will set a date for any necessary evidentiary hearing. Accordingly, only counsel and *pro se* parties are required to appear at the confirmation hearing with respect to a § 506(a) matter. If the plan proposes to pay the holder of a secured claim less than the amount owed to the holder of the secured claim because of a valuation issue that is governed by § 506(a), the Debtor(s) shall send a separate notice to the holder of the secured claim and the Chapter 13 Trustee at least 20 days before the confirmation hearing. The notice shall read as follows:

**OBJECTION TO SECURED CLAIM**

*The Debtor(s) object to the Secured Claim of [name of creditor] based on the Debtor(s)’ allegation that the value of the collateral is less than the amount of the holder’s claim. The Debtor(s) propose to pay the holder of the Secured Claim only the amounts set forth in the Debtor(s)’ Plan.*

*The Court will conduct a scheduling conference on this contested matter on the date set for the hearing on confirmation of the Debtor(s)’ plan. You must file a response to this objection, in writing, not less than 5 days (including weekends and holidays) before the hearing on confirmation of the plan or the valuation set forth in the plan may be adopted by the Court. (Bankruptcy Code § 102(1)(B)).*

9. **Hearings on Objections to Allowance of Priority Claims or Secured Claims at Confirmation.** If a plan proposes to pay the holder of a priority claim or a secured claim less than the amount set forth on a proof of claim filed by the holder of the priority claim or the secured claim, the Court will treat the filing of the plan as an objection to the priority claim or the secured claim. At the initial hearing on confirmation of the plan, the Court will conduct a scheduling conference and set a date for any necessary evidentiary hearing on the objection. Accordingly, only counsel and *pro se* parties are required to appear at the confirmation hearing with respect to an objection to a priority claim or secured claim. If the plan proposes to pay the holder of a priority claim or a secured claim less than the amount claimed by the holder as a priority claim or secured claim, the Debtor(s) shall send a separate notice to the holder of the priority claim or secured claim and the Chapter 13 Trustee at least 20 days before the confirmation hearing. The notice shall read as follows:

**OBJECTION TO CLAIM**

*The Debtor(s) object to the Claim of [name of creditor] based on the Debtor(s)’ allegation that the amount owed as a priority or secured claim is less than the amount set forth in the holder’s proof of claim as a priority or secured claim.. The Debtor(s) propose to pay the holder of the Claim only the amounts set forth in the Debtor(s)’ Plan.*

*The Court will conduct a scheduling conference on this contested matter on the date set for the hearing on confirmation of the Debtor(s)’ plan. You must file a response to this objection, in writing, not less than 5 days (including weekends and holidays) before the hearing on confirmation of the plan or the amount set forth in the plan may be adopted by the Court. (Bankruptcy Code § 102(1)(B)).*

The notice of the Objection to Claim must be served on the United States Internal Revenue Service as provided in FRCP(i) AND by mailing a copy to:

Office of Chief Counsel  
Attention: Bankruptcy  
8701 South Gessner Street  
Suite 710  
Houston, Texas 77002

**10. Parties Required to Attend Hearings.**

a. Plan confirmation will normally be considered at the first scheduled hearing on confirmation; continuances will be granted only for good cause shown. Accordingly, parties to contested confirmation issues must attend the hearing. If all objections to confirmation have not been resolved, the Court will consider evidence and argument at the confirmation hearing. Failure by an objecting party to attend the confirmation hearing and to introduce evidence, if required, may result in the objection being overruled. Failure by the Debtor(s) (individually and/or through counsel) to attend the confirmation hearing and to introduce evidence, if required, may result in the objection being sustained and confirmation being denied. As set forth in § 7 and § 8 of this Order, Debtors represented by counsel need not attend the scheduling conferences for matters governed by those sections.

b. If a matter has been resolved concerning a motion or an objection, the parties may designate counsel for one of the settling parties to announce the settlement. Other counsel may, but are not required, to attend. If no person announces the settlement, the motion or objection may be denied for want of prosecution.

c. If the Court declines to accept the announced agreement, the matter may be continued until the next chapter 13 panel date or the Court may make another disposition. All parties to the objection (i.e., the objecting party, the Debtor(s) and the Chapter 13 Trustee) must attend the continued hearing.

**11. Post-Confirmation Motions to Dismiss for Failure to Make Payments Required by the Plan.**

- a. With respect to the first post -confirmation Motion to Dismiss for failure to make plan payments, if the Debtor(s) cure the deficiencies at least 7 days (including weekends and holidays) before the hearing, the Chapter 13 Trustee may withdraw the Motion to Dismiss before the hearing and the hearing will be canceled.
- b. With respect to any subsequent Motion to Dismiss for failure to make plan payments, a hearing will be held. The Chapter 13 Trustee may not withdraw the motion without leave of court. The Debtor(s) must appear at the hearing to demonstrate, by a preponderance of evidence, that the Debtor(s) Plan is feasible and must show cause for the Court to excuse multiple delinquencies.

**12. Debtor(s)'s Appearance and Testimony at Hearing on Motion to Modify.** If the Debtor(s) file more than one motion to modify a confirmed plan, the Debtor(s) must appear at the hearing on the second (and any subsequent) motion(s) to modify and present testimony and/or other evidence sufficient to satisfy the statutory requirements for plan modification.

**13. Service of this Order.** A copy of this Order shall promptly be served by the Clerk on parties in interest, including the Debtor(s) and Debtor(s)' counsel..

**THIS ORDER IS EFFECTIVE, IN EACH CASE, ON THE DATE THE ORDER IS ENTERED IN THAT CASE.**

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**WESLEY W. STEEN**  
**United States Bankruptcy Judge**